

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

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BUFFALO LABORERS WELFARE FUND; BUFFALO
LABORERS PENSION FUND; BUFFALO LABORERS
TRAINING FUND; BUFFALO LABORERS SECURITY
FUND; THOMAS L. PANEK, in his fiduciary capacity as
ADMINISTRATOR; LABORERS EMPLOYERS
COOPERATION AND EDUCATION TRUST; and
LABORERS' LOCAL 210, LABORERS INTERNATIONAL
UNION OF NORTH AMERICA,

18-CV-693-GWC

**JUDGMENT
BY DEFAULT**

Plaintiffs,

- against -

SPECTRUM MECHANICAL SERVICES,

Defendants.
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This action having been commenced by the filing of a Summons and Complaint on June 18, 2018, and a true copy of the Summons and Complaint having been served upon Defendant Spectrum Mechanical Services (hereafter "Defendant") on June 26, 2018, by service of two copies of the Summons and Complaint by Deborah LaPointe, a licensed process server, upon Nancy Dougherty, an agent of the Secretary of State of New York, pursuant to Section 306 of the Business Corporation Law of the State of New York, and proof of service having been filed with the Court on June 28, 2018, and Defendant having failed to answer, appear, or otherwise defend this action within the time permitted by law, and Defendant being neither an infant, an incompetent, nor in the military service of the United States so no just reason exists to delay the entry of default against Defendant.

Now, on motion of Gorlick, Kravitz & Listhaus, P.C., attorneys for Plaintiffs, by Joy K. Mele, Esq., it is ORDERED, ADJUDGED, and DECREED, that Plaintiffs Buffalo Laborers Welfare Fund; Buffalo Laborers Pension Fund; Buffalo Laborers Training Fund; Buffalo Laborers

Security Fund; Thomas L. Panek in his fiduciary capacity as Administrator; Laborers Employers Cooperation and Education Trust ("LECET"); and Laborers' Local 210, International Union of America (collectively, "Plaintiffs"), have judgment against Defendant in the liquidated amount of \$83,025.35, which amount includes:

- a. \$70,748.96 for delinquent fringe benefit contributions based on Remittance Reports for the period of February 9, 2018 to June 10, 2018;
- b. \$1,800.14 for interest on delinquent fringe benefit contributions from the time such contributions were due at the rate set by the relevant collective bargaining agreement;
- c. \$1,800.14 for liquidated damages on the delinquent fringe benefit contributions;
- d. \$5,350.05 for undeducted and/or unremitted dues checkoffs based on Remittance Reports for the period of February 9, 2018 to June 10, 2018;
- e. \$121.32 for interest on undeducted and/or unremitted dues checkoffs from the time withheld and/or due at the rate set by C.P.L.R. § 5004;
- f. \$290.55 for undeducted and/or unremitted NYLPAC contributions based on Remittance Reports for the period of February 9, 2018 to June 10, 2018;
- g. \$6.67 for interest on undeducted and/or unremitted NYLPAC contributions from the time withheld and/or due at the rate set by C.P.L.R. § 5004;
- h. \$290.55 for delinquent LECET contributions based on Remittance Reports for the period of February 9, 2018 to June 10, 2018;
- i. \$6.67 for interest on delinquent LECET contributions from the time such contributions were due at the rate set by C.P.L.R. § 5004;

j. \$2,610.30 for Plaintiffs' reasonable attorneys' fees and costs;

It is further ORDERED, ADJUDGED, and DECREED THAT:

- a. Defendant must permit and cooperate in an audit of its books and records for the period of February 9, 2018 to the present, and shall pay any sums found due;
- b. Defendant must pay the cost of the audit in the event that the audit of its books and records discloses a delinquency in excess of 10% of the prior year's contributions or \$2,000.00, whichever is greater;
- c. Defendant must post and maintain a bond in the amount of \$50,000.00; or in the event the audit of Defendant's books and records reveal a deficiency, twice the audited deficiency; whichever is greater.

Dated: **Burlington, Vermont**
12.28, 2018



Hon. Geoffrey Crawford, U.S.D.J.